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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,096	11/13/2001	Joachim Blum	FA-1035	7509

7590 05/23/2005

E I du Pont de Nemours and Co
1007 Market Street
Legal patents
Wilmington, DE 19898

EXAMINER

FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,096

Applicant(s)

BLUM ET AL.

Examiner

William P. Fletcher III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31, 32 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31, 32, 38-43 and 45 is/are rejected.
- 7) ☒ Claim(s) 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment and response filed 10 March 2005 is acknowledged. To clarify the record at this point in the prosecution, claims 31, 32, and 38-45 are pending.

Response to Arguments

2. Applicant's arguments filed in the above-mentioned response, with respect to the rejections set-forth in the Office action mailed 09 December 2004, have been fully considered and are persuasive.

Applicant has amended the claims to remove the phrase "smooth and high gloss," thereby overcoming the rejection under 35 USC 112, 2nd Paragraph.

Further, applicant has amended the claims to recite specific plastic molded parts. Yaver explicitly states: "The flexible trim strip of the invention is a composite of layers which together give a distinct decorative article" (2:47-49). Because this reference is directed to decorative articles rather than the particular and *per se* "structural" articles claimed by applicant, and because the reference neither teaches nor suggests that the plastic molded part is selected from the recited group, Yaver no longer anticipates or renders the claims obvious.

However, upon further consideration, a new ground(s) of rejection is made in view of Ellison et al. (Re. 35,739) below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 31, 39, 42, 43, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison et al. (Re. 35,739).**

With respect to independent claim 31, Ellison teaches a process for producing plastic molded parts. The process comprises spray-applying directly to the rear face of a substantially clear (i.e., substantially transparent) plastic material at least one opaque color and/or effect lacquer layer. This coated plastic material is then bonded or molded onto a plastic supporting substrate to form a plastic molded part, explicitly disclosed examples of which are automobile body panels (i.e., side panels) and bumpers. See abstract; 1:10-15 and 45-55; 1:60-2:2; 2:23-32 and 47-52; and 3:10-10:55.

This reference does not explicitly teach that the thickness of the opaque lacquer layer is from 10-30 microns.

It is the examiner's position that the thickness of a color and/or effect lacquer layer is a result-effective variable effecting properties such as coverage, hiding power, and degree of color and/or effect. Such a coating must be thick enough to provide even coverage and to give a

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desired hiding power, color and/or effect, without being so thick as to be too costly, too wasteful of materials, or so thick as to render the plastic material unsuitable for further processing (i.e., the bonding/molding disclosed by Ellison). Consequently, absent clear and convincing evidence of unexpected results demonstrating the criticality of the claimed layer thickness, it would have been obvious to one of ordinary skill in the art to modify the process of Ellison so as to optimize the layer thickness by routine experimentation. See MPEP 2144.05.

The examiner notes that the pre-treatment step is optional.

With respect to claim 39, Ellison uses, throughout the disclosure, the adjectives “clear” and “substantially clear” to describe the transparent plastic material. It is the examiner’s position that this is inclusive of a completely clear or transparent material. In the alternative, it would have been obvious to one of ordinary skill in the art to utilize a completely clear or transparent plastic material in order to allow the maximum amount of the color and/or effect lacquer show through without distortion.

With respect to claims 42 and 43, Ellison teaches that the substantially transparent plastic material is thermoformable and may be, among others, poly(meth)acrylic plastics (3:35-5:9).

With respect to claim 45, the process of Ellison inherently results in a plastic molded part.

6. Claims 31, 32, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison et al. (Re. 35,739) in view of Verardi et al. (US 6,001,469 A).

The teaching of Ellison is detailed above.

This reference does not explicitly teach that the process additionally comprises the step of treating the transparent plastic material with the adhesion promoting treatments claimed.

Verardi teaches that it is well-known in the art of coating plastic substrates to provide the substrate with a corona, flame, or adhesion-promoting coating pre-treatment in order to promote and improve adhesion of the coating material to the substrate (1:23-40). Consequently, it would have been obvious to one of ordinary skill in the art to modify the process of Ellison so as to pre-treat the transparent plastic substrate with corona, flame, or an adhesion-promoting coating. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully improving the adhesion of the color and/or effect lacquer coating thereto, as suggested by Verardi.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison et al. (Re. 35,739) in view of Verardi et al. (US 6,001,469 A), as applied to claim 32 above, in further view of Yaver (US 4,877,657 A).

The combined teaching of Ellison in view of Verardi is detailed above.

Neither of these references teach that the transparent plastic material additionally contains the recited materials.

Yaver, as discussed at length in prior Office actions, teaches a process in which a transparent substrate is coated on a rear face, with a lacquer layer. Yaver teaches that various desired coloring effects can be imparted to the article by the additional incorporation of dyes and pigments into the transparent plastic material (3:10-15).

It would have been obvious to one of ordinary skill in the art to modify the process of Ellison in view of Verardi so as to incorporate, into the transparent plastic material, dyes and pigments. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of imparting a desired coloring effect. One of ordinary skill in the art would have

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had a reasonable expectation of successfully doing so because both Ellison and Yaver disclose the same transparent plastic materials in similar processes of forming color and/or effect lacquer coated substrates.

8. **Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison et al. (Re. 35,739) in view of Verardi et al. (US 6,001,469 A), as applied to claim 32 above, in further view of Buteux (US 3,700,540 A).**

The combined teaching of Ellison in view of Verardi is detailed above.

Neither of these references teach that the transparent plastic material additionally contains the recited auxiliary substances.

Buteux teaches that the recited auxiliary substances are filler that impart specific properties to plastic films to which they are added. For example, silica imparts a matte finish (3:74-4:33).

It would have been obvious to one of ordinary skill in the art to modify the process of Ellison in view of Verardi so as to incorporate, into the transparent plastic material, the recited auxiliary filler materials. One of ordinary skill in the art would have been motivated to do so not only because the addition of fillers to plastic films is well-known in the art, but so as to impart a desired effect to the film, such as a matte finish.

Allowable Subject Matter

9. Claim 44 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. The following is a statement of reasons for the indication of allowable subject matter: Ellison teaches that the color and/or effect lacquer layer may be over-coated with an adhesive (5:10-39). It has been established on the record that applicant's definition of "lacquer" is exclusive of adhesives. Consequently, the prior art neither teaches nor suggests the claimed process comprising the further step of applying a clear lacquer layer to the opaque layer disposed on the rear surface of the substantially transparent plastic material.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

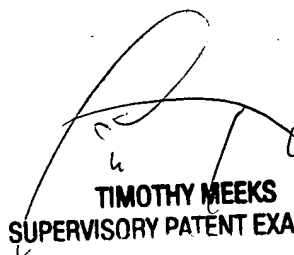
Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WPF 5/18/2005
William Phillip Fletcher III
Patent Examiner, USPTO
Art Unit 1762


TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER